

REMARKS

This reply is in response to the Office Action mailed on November 28, 2007 in which claims 1-15 were withdrawn from consideration and in which claims 16-37 were rejected. With this response, claims 1-15, 17 and 37 are canceled; and claims 38-51 are added. Claims 16, 18-36 and 38-51 are presented for reconsideration and allowance.

I. Rejection of Claim 16-21 under 35 USC 103(a) Based upon Oglesby

Pages 2-3 rejected claims 16-21 under 35 USC 103(a) as being unpatentable over Oglesby et al. US Patent 4840372. Claim 17 is canceled. For the reasons which follow, the rejection of claim 16 and 18-21 should be withdrawn.

A. Claim 16

Claim 16 recites a method which includes using a control server at a fitness facility to gather service information, determining whether the service information is significant and automatically sending a service alert message to at least one predefined recipient regarding service information that is significant.

Oglesby fails to disclose (1) gathering service information with a control server at a fitness facility and (2) automatically sending a service alert message to at least one predefined recipient. Nowhere does Oglesby disclose a control server that gathers service information at a fitness facility. Clearly, processor 42 of Oglesby, which is part of a particular exercise machine, cannot be considered a control server. As known to those of ordinary skill in the art, a server is a device in a network that manages multiple computers in some fashion. Processor 42 of Oglesby does not manage multiple computers and thus is clearly not a server. Rather, processor 42 is dedicated to one particular exercise equipment and has no relationship to other processors on other pieces of exercise equipment.

Moreover, claim 16 further requires that the “control server” gather service information via a wireless connection. Nowhere does Oglesby even remotely suggest that processor 42 would gather the “usage accounting data” via a wireless connection. In fact, it would make absolutely no sense for a processor which is part of an exercise machine to

gather information from the same exercising machine using a wireless connection. Even assuming, arguendo, that the assertion that it is well-known in the exercise art to use wireless devices for transmitting data, this assertion wholly applies to transmitting data between remotely located devices, not for transmitting data in the SAME exercise machine. Accordingly, processor 42 cannot be reasonably considered as a control server that gathers information via a wireless connection.

Although Oglesby discloses that processor 42 may be coupled to a main health club computer having its own display and that the message may be displayed on the main computer's display (column 5, lines 58-62), this simply means that the control signals that generate the display message are simply sent to the main computer or its display. Note that Oglesby does NOT disclose that the actual "accounting data" or "reference data" of Oglesby is sent by processor 42 from RAM 49 of the particular piece of exercise equipment to the main health club computer. ONLY the display message is sent for display on the main computers display. Thus, the main health club computer of Oglesby which simply receives the display message for presentation on its own monitor or display cannot be properly considered as the "control server" and cannot be considered to "gather service information." In other words, the main health club computer simply serves as another monitor. The main health club computer does not "gather" any actual service information. Accordingly, the rejection of claim 16 should be withdrawn. The rejection of claims 18-21 which depend from claim 16 should be withdrawn for a least the same reasons.

B. Claim 19

Claim 19 depends from claim 16 and recites that the control server stores the service information that has been gathered in a database associated with the control server.

Once again, as noted above, Oglesby does not disclose any control server. Processor 42 of the particular exercise machine cannot be considered a server. Moreover, the main health club computer disclosed by Oglesby does not "gather" service information. With respect to claim 19, nowhere does Oglesby remotely indicate that the main health club computer stores the "accounting data" or the "reference data," that has being gathered, in a

database. At most, Oglesby merely discloses that the main health club computer serves as another monitor for displaying a message indicating that a particular machine should be serviced. Accordingly, rejection of claim 19 should be withdrawn for least this additional reason.

C. Claim 21

Claim 21 depends from claim 16 and further specifies that the service information is sent by the control server.

Once again, as noted above, processor 42 of the individual exercise machine of Oglesby cannot be considered a control server. As noted above, the main health club computer also cannot be considered as a control server that gathers service information. Moreover, with respect to claim 21, nowhere does Oglesby even remotely suggest that the main health club computer sends service information to at least one predefined recipient. In contrast, the main health club computer merely receives a message for display that indicates that the machine should be serviced. Even assuming, *arguendo*, that Oglesby happened to disclose that the display message additionally included the “accounting data” (which Oglesby does not), Oglesby fails to further disclose that main computer ever forwards or sends such information to yet another recipient. Accordingly, rejection of claim 21 should be withdrawn for this additional reason.

II. Rejection of claims 22-37 under 35 USC 103(a) based upon Oglesby and Shea

Pages 3-7 of the Office Action rejected claims 22-37 under 35 USC 103(a) as being unpatentable over Oglesby et al. US Patent 4840372 in view of Shea US Patent 7056265. Claim 37 is canceled. For the reasons which follow, the rejection of claims 22-36 should be withdrawn.

Claims 22-30 depends from claim 16 and overcome the rejection based upon Oglesby and Shea for the reasons discussed above with respect to the rejection of claim 16 based upon Oglesby alone. Shea fails to satisfy the deficiencies of Oglesby. For the following additional reasons, the rejection of claims 24, 25, 29 and 31-36 should be withdrawn.

A. Claims 24, 25 and 29

Claim 24 depends from claim 16 and further specifies that the controls server sends real-time service information and history service information from an accumulated a storage unit.

Claims 25 and 29 depend from claim 16 further recite that the controls server sends both real-time service information and history service information

Once again, as noted above, processor 42 of the individual exercise machine of Oglesby cannot be considered a control server. As noted above, the main health club computer also cannot be considered as a control server that gathers service information. Moreover, with respect to claims 24, 25 and 29, nowhere does Oglesby even remotely suggest that the main health club computer sends service information to at least one predefined recipient. In contrast, the main health club computer merely receives a message for display that indicates that the machine should be serviced. Even assuming, arguendo, that Oglesby happened to disclose that the display message additionally included the “accounting data” (which Oglesby does not), Oglesby fails to further disclose that main computer ever forwards or sends such information to yet another recipient. Accordingly, rejection of claims 24, 25 and 29 should be withdrawn for this additional reason.

B. Claim 31

Claim 31 recites a method for obtaining service information from fitness equipment units. First, claim 31 recites requesting service information on fitness equipment units (PLURAL) from an accumulated data storage unit having a permanent database, wherein the request includes instructions DEFINING what types of service information are to be obtained. Second, claim 31 recites that the database is formed from information from a plurality of temporary databases.

Neither Oglesby nor Shea, alone or in combination, disclose or suggest a method (1) wherein service information on a plurality of fitness equipment units is requested from a data storage unit with a request that defines what types of information are to be obtained; and (2)

wherein the database containing the service information is formed from a plurality of temporary databases.

1. Neither Oglesby nor Shea disclose a method wherein service information on a plurality of fitness equipment units is requested from a data storage unit with a request that defines what types of information are to be obtained.

In rejecting claim 31, the Office Action asserts that:

Oglesby discloses requesting service information on the fitness equipment units from an accumulated data storage unit having a permanent database (abstract).

(Office Action dated November 28, 2007, page 6).

However, this is incorrect. Oglesby does not disclose requesting service information on fitness equipment units (PLURAL) from an accumulated data storage unit. First, at most, Oglesby only presents a message indicating that a single machine should be serviced. The presented message of Oglesby (whether on display 24 or on the display of the main computer), only relates to a single exercise machine, NOT a plurality of fitness equipment units.

Second, nowhere does Oglesby disclose that any accumulated data storage unit includes service information for a PLURALITY of fitness equipment units. In contrast, processor 42 of Oglesby obviously only contains “accounting data” in RAM 49 for the single exercise machine which contains processor 42. It would make little sense for processor 42 of Oglesby which presumably stores the “accounting data” for the particular exercise machine to include “accounting data” for other exercise machines. Likewise, it would make absolutely no sense for a request for service information on a plurality of fitness units (PLURAL) from RAM 49 or processor 42 of an exercise machine that would ONLY have “accounting data” for itself.

Shea also fails to disclose a request that defines what types of information regarding a plurality of fitness equipment units are to be obtained from a data storage unit. In contrast,

Shea merely discloses that historic maintenance information and usage information for a single machine may be accessed at any one time.

2. Neither Oglesby nor Shea disclose a method wherein the database containing the service information is formed from a plurality of temporary databases.

In asserting that Oglesby discloses a database form from an accumulation of service information from a plurality of temporary databases, the Office Action refers to column 5, lines 43 – et seq. However, nowhere does Oglesby disclose an accumulation of service information from a plurality of temporary databases. The Office Action's assertion is incorrect. Oglesby merely discloses a process or 42 and a memory 49 associated with an individual exercise machine as storing "accounting data."

The Office Action fails even assert that Shea discloses a database containing service information form from a plurality of temporary databases. Accordingly, the rejection of claim 31 should be withdrawn.

C. Claim 33

Claim 33 depends from claim 31 and further recites requesting current service information from a plurality of temporary databases.

Neither Oglesby nor Shea disclose requesting current service information from a plurality of temper he databases. The Office Action fails even assert that Shea discloses such. Moreover, the Office Action acknowledges that Oglesby also does not disclose such. However, the Office Action attempts to argue that:

It would have been obvious use a plurality of temporary databases, as Oglesby uses a RAM (49), for having other request data bases to draw from.

(Office Action dated November 20 8, 2007, page 7).

However, this assertion lacks merit. First, RAM 49 does not enable Oglesby to have other request databases to draw from. RAM 49 merely stores an "accounting data" for the

individual exercise machine. Nowhere does Oglesby even remotely suggest that RAM 49 provides a plurality of temporary databases.

Second, if it would've been so obvious, why didn't Oglesby disclose it? This rejection is clearly based upon impermissible hindsight reasoning using Applicant's own disclosure as a blueprint. Accordingly, the rejection of claim 33 should be withdrawn.

### III. Added Claims

With this response, claims 38-51 are added. Claims 38-51 are believed to be patentably distinct over the prior art of record.

#### A. Claim 38

Claim 38 depend from claim 16 and recites that the fitness facility is one of a plurality of fitness facilities of an association and that the least one predefined recipient is a main office of the association. Support for added claim 38 may be found in at least Figure 1. Thus, no new matter is believed to be added.

The prior to record fails to disclose automatically sending a service alert message to a main office of an association of a plurality of fitness facilities. Thus, claim 38 is presented for consideration and allowance.

#### B. Claim 39

Claim 39 depends from claim 16 and recites that the service alert message is automatically sent to a manufacturer of the at least one fitness equipment. Support for claim 39 may be found in at least Figure 1 and Paragraph [0139]. Thus, no new matter is believed to be added.

The prior art of record fails to disclose automatically sending a service alert message to a manufacturer of fitness equipment. Accordingly, claim 39 is presented for consideration and allowance.

#### C. Claim 40

Claim 40 depends from claim 16 and recites that the service alert message is automatically sent to a server/maintenance provide a remote from the fitness facility. Support for claim 40 may be found in at least Figure 1 and Paragraph [0139]. Thus, no new matter is believed to be added.

The prior art of record fails to disclose automatically sending a service alert message to a server/maintenance provide a remote from the fitness facility. Accordingly, claim 40 is presented for consideration and allowance.

D. Claim 41

Claim 41 depends from claim 16 and further recites sending service information from the control server at the fitness facility to an accumulated data storage unit and sending service information from a second control server and a second fitness facility remote from the first fitness facility to the accumulated data storage unit. Support for added claim 41 may be found in at least Paragraph [0144]. Thus, no new matter is believed to be added.

The prior art of record fails to disclose sending service information from control servers and to think that facilitates to a single accumulated data storage unit. Accordingly, claim 41 is presented for consideration and allowance.

E. Claim 42

Claim 42 depends from claim 41 and further recites that the service information sent from the second control server at the second fitness facility is real-time data and is continuously sent. Support for claim 42 may be found in at least Paragraph [0144]. Thus, no new matter is believed to be added.

The prior art of record fails to disclose a control server continuously sending real-time data to an accumulated data storage unit that also receives service data from a second control server at a distinct fitness facility. Accordingly, claim 42 is presented for consideration and allowance.

F. Claim 43

Claim 43 depends from claim 16 and recites that the least one predefined recipient comprises a repair facility and that the service alert message includes a request for replacement part for the at least one exercise equipment. Support for added claim 43 may be found in at least Paragraph [0139]. Thus, no new matter is believed to be added.

The prior art of record fails to disclose automatically sending a service alert message which includes a request for a replacement part for at least one exercise equipment. Accordingly, claim 43 is presented for consideration and allowance.

G. Claim 44

Claim 44 depends from claim 31 and recites that the service report includes service information on a plurality of fitness equipment units. Support for claim 44 may be found in at least Figure 31. Thus, no new matter is believed to be added.

The prior art of record fails to disclose or suggest a service report which includes service information for a plurality of fitness equipment units. In contrast, both Oglesby and Shea appear to merely disclose presenting information for a single machine at any one moment in time. Accordingly, claim 44 is presented for consideration and allowance.

H. Claim 45

Claim 45 depend from claim 44 and further recites that the plurality fitness equipment units are located at a plurality of distinct fitness facilities. Support for added claim 45 may be found in at least Figure 23. Thus, no new matter is believed to be added.

The prior art of record fails to disclose a surface report that provides service information for a plurality of fitness up every units located at a plurality of distinctive fitness facilities. Thus, claim 45 is presented for consideration and allowance.

I. Claims 46 and 51

Claims 46and 51 depend from claims 31and 35, respectively, and recite that the service report includes information concerning usage of at least one fitness equipment unit

during hours of the day, identifying peak hours of usage. Support for added claim 46 and 51 may be found in at least Paragraph [0161]. Thus, no new matter is believed to be added.

The prior art of record fails to disclose a service report that includes usage of the fitness machine or equipment during hours of the day, identifying peak hours of usage. Thus, claims 46 and 51 are presented for consideration and allowance.

J. Claims 47 and 49

Claims 47 and 49 depend from claim 31 and 35, respectively, and recite that the service report includes information concerning usage of the plurality of fitness equipment units. Support for claims 47 and 49 may be found in at least Figure 23. Thus, no new matter is believed to be added.

The prior art of record fails to disclose a surface report that includes service information for a plurality of fitness equipment units. Accordingly, claims 47 and 49 are presented for consideration and allowance.

K. Claims 48 and 50

Claims 48 and 50 depend from claims 47 and 49, respectively and recite that the plurality of fitness equipment units are at different fitness facilities. Support for added claims 48 and 50 may be found in at least Figure 23. Thus, no new matter is believed to be added.

The prior art of record fails to disclose a service report that provides usage information for a plurality of fitness women units at different fitness facilities. Accordingly, claims 48 and 50 are presented for consideration and allowance.

IV. Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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